

PUBLIC CONTRACTS REVIEW BOARD

Case 1080 – SVP 1058 – Tender for the Supply and Delivery of 80 Full Replacement Air Mattresses to St Vincent de Paul Long Term Care Facility, Luqa

The Publication Date of the Call for Tenders was 6 March 2017 whilst the Closing Date for Call of Tenders was 27 March 2017. The Estimated Value of the Tender, (Exclusive of VAT) was € 90,000.

Thirteen (13) Bidders have submitted Nineteen (19) offers for this Tender.

On 18 August 2017, Global Supplies Limited filed an Objection against the decision of St Vincent de Paul Long Term Care Facility to award the Tender to Be Independent Ltd for the price of € 40,240 (Exclusive of VAT) against a deposit of € 450.

On 5 September 2017, the Public Contracts Review Board composed by Dr Anthony Cassar as Chairman, Dr Charles Cassar and Mr Richard A. Matrenza as members convened a Public Hearing to discuss the Objection.

The Attendance for this Public Hearing was as follows:

Appellant – Global Supplies Limited

Ing Christopher Grech	Representative
Mr Robert Grech	Representative
Dr Josette Grech	Legal Representative

Recommended Bidder – Be Independent Limited

No representative for Be Independent Limited has attended the Public Hearing

Contracting Authority – St Vincent de Paul Long Term Care Facility

Mr James Carabott	Chairperson, Evaluation Board
Ms Miriam Azzopardi	Secretary, Evaluation Board
Ms Josann Debono	Member, Evaluation Board
Ms Claudia Muscat	Member, Evaluation Board

Following an introduction made by the Chairman of the Public Contracts' Review Board, Dr Anthony Cassar, the Appellants were invited to make their submissions.

Dr Josette Grech, the Legal Representative for Global Supplies Limited said that, the issue was regarding a mattress which the Bidders had to supply, which had to be made either of air cells or of air cells and foam. The Appellants have supplied a mattress from the latter format, which was of a single unit and does not exceed the height requested by the Tender Document.

Dr Grech then referred to some pictures which she also submitted to the Public Contracts Review Board for further deliberation. These showed that part of the mattress was made of foam which, although it can be replaced, it would still remain part of the same unit. The Appellants felt that the Evaluation Board has misunderstood their submission.

Dr Josette Grech then referred to the Reasoned Letter of Reply issued by St Vincent de Paul Long Term Care Facility on the 23 August 2017 which *inter alia* stated that:

- “1. The Contracting Authority asked for a total replacement mattress of the bed: either air cells or air cells and foam, as per page 15 of Section 4 – Technical Specifications;*
- 2. In their submission, Global Supplies Limited listed that “The mattress is made of air cells and has foam inserted at the bottom”*
- 3. The Bidders’ reply “foam inserted at the bottom” means that the foam is inserted separately under the mattress, thus not forming a total replacement mattress, as a one unit mattress.”*

Dr Josette Grech agreed with the first point, but she disagreed with the other two points since there was no indication in the tender document stating that it was not a single unit. The pictures which the Appellants have submitted together with the Technical Offer indicated clearly that this was one single unit. If the Contracting Authority had requested a Clarification, this Public Hearing would not have been held.

Mr James Carabott, on behalf of St Vincent de Paul Long Term Care Facility, said that the Evaluation Board understood incorrectly that these were two different units.

Dr Anthony Cassar, the Chairman of the Public Contracts Review Board remarked that both parties knew that there was a misunderstanding and that this could be agreed that the mattress submitted was a single unit for which all parties agreed.

At this stage, the Public Hearing was adjourned to Tuesday 19 September 2017 at 09:00 wherein the Public Contracts Review Board will transmit the decision taken for this Objection verbally and then distribute a hard copy of the same to all parties concerned.

This Board,

Having noted this Objection filed by Global Supplies Limited (herein after referred to as the Appellant) on 18 August 2017, refers to the Contentions made by the latter with regards to the award of Tender of Reference SVP 1058 listed as Case No 1080 in the records of the Public Contracts Review Board, awarded by St Vincent de Paul Long Term Care Facility (herein after referred to as the Contracting Authority).

Appearing for the Appellant: Dr Josette Grech

Appearing for the Contracting Authority: Mr James Carabott

Whereby, the Appellant contends that:

- a) His offer was discarded due to the alleged assumption that his offer was not a single unit in itself. In this regard, the Contracting Authority considered Global Supplies Limited's offer as comprising of two different units, which was not the case.**

This Board also noted the Contracting Authority’s “*Letter of Reply*” dated 23 August 2017 and its verbal submissions during the Public Hearing held on 5 September 2017, in that:

- a) During the Public Hearing, St Vincent de Paul Long Term Care Facility admitted that the Evaluation Board understood that the Appellant’s offer comprised of two units instead of one.**

This Board has also taken note of the documents submitted by Global Supplies Limited which consisted of three pictures of the mattresses submitted in their offer.

This Board, after having considered the merits of this case, arrived at the following conclusions:

- 1. During the Public Hearing and the submissions made by the Appellant, it was clearly illustrated that Global Supplies Limited’s offer consisted of one unit and St Vincent de Paul Long Term Care Facility confirmed and agreed to the explanations and illustrations provided for by the Appellant.**

In view of the above, this Board finds in favour of Global Supplies Limited and recommends that:

i) The Appellant's offer is to be reintegrated in the Evaluation Process;

ii) The deposit paid by Global Supplies Limited is to be fully refunded.

Dr Anthony Cassar
Chairman

Dr Charles Cassar
Member

Mr Richard A Matrenza
Member

19 September 2017